

STATE OF MICHIGAN  
COURT OF APPEALS

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MARCIA A. PETERSON,

Plaintiff-Appellant,

V

MADISON-FLINT PROPERTIES, LLC, and  
MICHAELS STORES INC.,

Defendants-Appellees.

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UNPUBLISHED

December 21, 2001

No. 226879

Genesee Circuit Court

LC No. 99-064623-NO

Before: White, P.J., and Talbot and E.R. Post\*, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the circuit court's order dismissing her premises liability claim against defendants. The circuit court granted defendants' motion for summary disposition pursuant to MCR 2.116(C)(10) on the basis that any danger was open and obvious. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal plaintiff argues that summary disposition was improper because the danger posed by the ramp was not open and obvious and, in any event, posed an unreasonable risk for defendants' business invitees. Plaintiff also argues that the court erred by finding that she could not maintain a negligence action based upon the code violation presented by the sides of the ramp. We disagree. Here there was no genuine issue of material fact that an ordinary pedestrian should have been able to discover the risk of tripping on the edge of the ramp upon casual inspection of that ramp. Nor are there any circumstances which would indicate that the tripping danger posed by the edge of the ramp was unavoidable or imposed an unreasonably high risk of severe harm. Defendants had no duty to protect plaintiff against this open and obvious danger. *Lugo v Ameritech Corp*, 464 Mich 512, 516-517; \_\_ NW2d \_\_ (2001); *Arias v Talon Development*, 239 Mich App 265, 268; 608 NW2d 484 (2000). Even if the construction of the handicapped ramp violated the barrier-free design statute, MCL 125.1351 *et seq.*, plaintiff is outside the class intended to be protected by the barrier-free statute and so cannot assert a theory of negligence based on that statute. *Klanseck v Anderson Sales*, 426 Mich 78, 87; 393 NW2d 356 (1986).

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\* Circuit judge, sitting on the Court of Appeals by assignment.

Affirmed.

/s/ Helene N. White  
/s/ Michael J. Talbot  
/s/ Edward R. Post